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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

MICHAELA LEE,

Plaintiff,

v.

MVW OF NEVADA, INC. d/b/a
MARRIOTT'S GRAND CHATEAU; DOE
EMPLOYEE; DOES II through V and ROE
CORPORATIONS VI through X, inclusive,

Defendants.

CASE NO.: 2:19-CV-01724-RFB-NJK

**STIPULATION AND ORDER TO EXTEND
DISCOVERY (60 DAYS) (THIRD
REQUEST)**

Plaintiff MICHAELA LEE ("Plaintiff"), by and through her attorneys of record, Daniel S. Simon, Esq., and Benjamin J. Miller, Esq., of the law firm SIMON LAW, and Defendant MARRIOTT RESORTS HOSPITALITY CORP. (erroneously named as MVW of NEVADA, INC. d/b/a MARRIOTT'S GRAND CHATEAU), by and through its attorneys of record JANICE M. MICHAELS, ESQ., ANALISE N.M. TILTON, ESQ., and KYLE J. HOYT, ESQ., of the law firm WOOD, SMITH, HENNING & BERMAN LLP (collectively the "Parties"), hereby respectfully request and stipulate to a 60-day extension of all remaining deadlines pursuant to FRCP 26 as follows:

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I. CURRENT DEADLINES:

The current deadlines under the Stipulated Discovery Plan and Scheduling Order dated July 6, 2020 are as follows:

- All parties shall complete discovery on or before **December 30, 2020;**
- All parties shall file motions to amend pleading or add parties on or before **August 31, 2020;**
- All parties shall make initial expert disclosures pursuant to FRCP 16.1(a)(2) on or before **August 31, 2020;**
- All parties shall make rebuttal expert disclosures pursuant to FRCP 16.1(a)(2) on or before **September 30, 2020;**
- All parties shall file dispositive motions no later than **January 29, 2021.**

II. STATEMENT SPECIFYING THE DISCOVERY COMPLETED:

To date, the Parties have engaged in the following discovery:

- Plaintiffs made their initial disclosures on, about December 3, 2019; her first supplemental disclosures, or about March 9, 2020; her second supplemental disclosures on April 8, 2020; her third supplemental disclosures on April 17, 2020; her fourth supplemental disclosures on May 28, 2020; and her fifth supplemental disclosures on October 2, 2020.
- Defendants made their initial disclosures on or about November 27, 2019; its first supplemental disclosures on April 24, 2020; its second supplemental disclosures on May 4, 2020; its third supplemental disclosures on May 11, 2020; its fourth supplemental disclosures on May 13, 2020; its fifth supplemental disclosures on May 20, 2020; its sixth supplemental disclosures on Jun 10, 2020; its seventh supplemental disclosures on July 16, 2020; its eighth supplemental disclosures on July 27, 2020; and its ninth supplemental disclosures on September 1, 2020.

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- Defendant propounded interrogatories, requests for admission and requests for production of documents to Plaintiff on January 31, 2020.
- Plaintiff provided written responses to Defendant's interrogatories, requests for admission and requests for production of documents on March 9, 2020.
- Plaintiff and Defendant stipulated to Plaintiff undergoing a Rule 35 examination, which was set for March 18, 2020 but was vacated due to the ongoing COVID-19 pandemic.
- Defendant provided written responses to Plaintiff's interrogatories, requests for admission and requests for production of documents on May 28, 2020.
- Depositions of Michaela Lee and Dennis Lee were conducted on September 15, 2020.

STATEMENT OF DISCOVERY THAT REMAINS TO BE COMPLETED:

Discovery was proceeding in the normal course. The Parties had stipulated to a Rule 35 examination of Plaintiff and were intending to move forward with party depositions, expert disclosures, and expert and/or treating physician depositions. Notably, the parties sought its first extension in light of the ongoing COVID-19 pandemic and the prohibition of any unessential in-person matters with the expectation that in-person matters would likely resume in June of 2020. The parties had set multiple depositions for early June of 2020.

The parties have continued to experience significant difficulty in coordinating depositions in light of the ongoing pandemic. Plaintiff and her husband's depositions were recently conducted, and Defendant has coordinated its FRCP 30(b)(6) designee(s)' deposition to be taken on November 10, 2020. Further, the parties have agreed to participate in a private mediation. Thus, the parties seek a brief continuance of discovery to complete the depositions and participate in private mediation before determining if any expert depositions need to be conducted.

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As discussed above, the parties did not expect the pandemic to continue to the extent that it has. The parties had depositions tentatively set for early June 2020 in order to comply with pending expert disclosures and to finish all needed discovery. Unfortunately, the pandemic has continued to cause significant delays and difficulties with conducting discovery.

Notably, Defendant has encountered significant difficulties in coordinating witness depositions, especially its FRCP 30(b)(6) designee(s) in light of the ongoing pandemic and Defendant's current operating structure as a result. Defendant resolved this matter and its FRCP 30(b)(6) designee is being deposed on November 10, 2020.

Additionally, the parties have agreed to participate in a private mediation in order to try and resolve this matter. Thus, the parties seek this continuance to complete that mediation and avoid potential expert depositions and costs.

The parties and their counsel have been very cooperative during discovery and agree that neither party will be prejudiced by the proposed extension. The parties submit that the delay is reasonable in the circumstances due to the ongoing difficulties during the pandemic. Finally, the parties agree the extension is sought in good faith.

IV. PROPOSED SCHEDULE:

Accordingly, the Parties agree to extend the discovery deadlines as follows:

- All parties shall complete discovery on or before **March 1, 2021;**
- All parties shall file motions to amend pleading or add parties on or before **August 31, 2020**
(unchanged);
- All parties shall make initial expert disclosures pursuant to FRCP 16.1(a)(2) on or before
August 31, 2020 (unchanged);

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- All parties shall make rebuttal expert disclosures pursuant to FRCP 16.1(a)(2) on or before **September 30, 2020 (unchanged)**;
- All parties shall file dispositive motions no later than **April 1, 2021**.

Based upon the foregoing, it is hereby stipulated that the Court vacate the current deadlines as stated in the Stipulated Discovery Plan and Scheduling Order, and that the Court issue a new order setting the deadlines as set forth in this Stipulation and Order.

Respectfully submitted this 9th day of November, 2020.

DATED this 9th day of November, 2020.

DATED this 9th day of November, 2020.

/s/ Benjamin J. Miller

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ORDER

IT IS HEREBY ORDERED that the Discovery Plan and Scheduling Order is third amended as follows:

- a. All parties shall complete discovery on or before **March 1, 2021**.
- b. All parties shall file initial expert disclosures on or before **August 31, 2020**
(unchanged).
- c. All parties shall file rebuttal expert disclosure on or before **September 30, 2020**
(unchanged).
- d. All parties shall file dispositive motions on or before **April 1, 2021**.

IT IS SO ORDERED.



UNITED STATES MAGISTRATE JUDGE

Dated: __ November 12, 2020 _____